

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ALVERENE BUTLER,,

Plaintiff,

v.

**ALABAMA DEPARTMENT OF
TRANSPORTATION, *et al.*,**

Defendants.

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CASE NO. 2:06-cv-00278-MEF-CSC

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants Alabama Department of Transportation, McInnes, Waits, and Jackson move this Court to grant summary judgment to them in this cause. In support thereof, Defendants file contemporaneously herewith their Memorandum Brief in Support of Summary Judgment and their Evidentiary Materials in Support of Summary Judgment. As grounds, Defendants state as follows:

1. The Complaint fails to state a claim against these Defendants for which relief can be granted.
2. Suit, pursuant to 42 USC 1983, against these Defendants is barred by the Eleventh Amendment of the United States Constitution.
3. Defendants McInnes, Waits, and Todd are entitled to the defense of qualified immunity.
4. Suit is barred by the statute of limitations.
5. The Plaintiff has failed to meet the jurisdictional prerequisites of suit under 42 USC 2000, otherwise known as Title VII.
6. The Plaintiff is not entitled to "backpay" due to her disability retirement from the Alabama Department of Transportation.

RESPECTFULLY SUBMITTED
TROY KING
ATTORNEY GENERAL

s/ Harry A. Lyles
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CERTIFICATE OF SERVICE

I hereby certify that, on January 29, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECT system, which will send notification to the following:

Mr. Jay Lewis, Esq.
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s/ Harry A. Lyles

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